

REMARKS

The Examiner is thanked for the thorough examination of the present application and the indication that claims 4-6, 10-11, and 34 contain allowable subject matter (Office Action, p. 5). The Office Action mailed August 24, 2006, however, tentatively rejected the remaining claims. This is a full and timely response to that outstanding Office Action. Upon entry of the amendments in this response, claims 1-34 and 40-46 are pending. More specifically, claims 1, 2, 4, 6, 7, 10, 12, and 14-26 are amended, and claims 40-46 are added. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claims 1, 7, 8, 12, and 14-25 are rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. Claims 1-3, 7-9, 12-16, 20-22, and 25-33 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Hutchinson, et al* (U.S. Publication No. 2003/0233438). These rejections are respectfully traversed.

II. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiner Zand spent with Applicant's representative Benjie Balser during a November 30, 2006, telephone discussion regarding the above-identified Office Action. Applicant believes that various features described in the patent application and recited in the independent claims, including an examination engine determining system vulnerability information for

a user, and *Hutchinson* were discussed during the telephone discussion, and that the outcome of this discussion is addressed herein. During that conversation, Examiner Zand seemed to indicate that it would be potentially beneficial for Applicant to file this amendment and response. Thus, Applicant respectfully requests that Examiner Zand carefully consider this amendment and response.

III. Newly Added Claims 40-46

Newly added claims 40-46 correspond to claims 4-6, 10-11, and 34, which the Examiner has indicated are allowable. Applicant respectfully submits that no new matter has been added and that at least claims 40-46 are allowable over the references of record.

IV. Rejections Under 35 U.S.C. §101

Claims 1, 7, 8, and 12 are rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. Claim 1 has been amended to claim "provide vulnerability information" such that the rejection of claims 1, 7, 8, and 12 under §101 are moot. Accordingly, Applicant respectfully submits that the rejections under 35 U.S.C. 101 should be withdrawn.

Claims 14-25 are rejected under 35 U.S.C. 101 because the claims allegedly do not have a tangible embodiment. Claims 14-25 have been amended to claim a "computer readable storage medium," as recommended by the Examiner, such that the rejection of claims 14-25 under 35 U.S.C. 101 are moot. Accordingly, Applicant

respectfully submits that the rejections of claims 14-25 under 35 U.S.C. 101 should be withdrawn.

V. Rejections Under 35 U.S.C. §102(e)

A. Claims 1-3, 7-9, and 12-13

The Office Action rejects claims 1-3, 7-9, and 12-13 under 35 U.S.C. §102(e) as allegedly being anticipated by *Hutchinson, et al* (U.S. Publication No. 2003/0233438).

For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1, as amended, recites:

1. A method for providing information on system vulnerabilities, comprising:
populating a database with element or system vulnerability information as determined for a user by an examination engine;
obtaining keywords from profile or policy-descriptive information for the system; and
selecting a database page to access from a database structure configured as a hierarchical plurality of database pages, each database page having a page index, data section and selector section, and utilizing keyword matching between the descriptive information and selector section to provide vulnerability information for an element or combination of elements.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Hutchinson* does not disclose, teach, or suggest at least **populating a**

database with element or system vulnerability information as determined for a user by an examination engine. Even if, *arguendo*, *Hutchinson* discloses a search of vulnerability profiles by a user using keyword techniques, it fails to disclose a list of vulnerabilities provided by an examination engine. The vulnerability profiles of *Hutchinson* are lists of possible vulnerabilities. The vulnerability information as claimed is actual vulnerability information of an element or system as determined by an examination engine. Therefore, *Hutchinson* does not anticipate independent claim 1, and the rejection should be withdrawn.

Because independent claim 1 is allowable over the cited references of record, dependent claims 2-3 and 13 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-3 and 13 contain all the steps/features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-3 and 13 are patentable over *Hutchinson*, the rejection to claims 2-3 and 13 should be withdrawn and the claims allowed.

B. Claims 14-16, 20-22, and 25

The Office Action rejects claims 14-16, 20-22, and 25 under 35 U.S.C. §102(e) as allegedly being anticipated by *Hutchinson, et al* (U.S. Publication No. 2003/0233438). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 14, as amended, recites:

14. A computer-readable storage medium having a computer program for providing information on system vulnerabilities for performing the steps of:
- logic configured to populate a database with element or system vulnerability information as determined for a user by an examination engine;***
 - logic configured to query a database to obtain descriptive information for the system;
 - logic configured to select a database page to access from a database structure configured as a hierarchical plurality of database pages, each database page having a page index, data section and selector section; and
 - logic configured to perform keyword matching between the descriptive information and selector section to provide vulnerability information for an element or combination of elements.
- (Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. Applicant respectfully submits that independent claim 14 is allowable for at least the reason that *Hutchinson* does not disclose, teach, or suggest at least **logic configured to populate a database with element or system vulnerability information as determined for a user by an examination engine**. Even if, *arguendo*, *Hutchinson* discloses a search of vulnerability profiles by a user using keyword techniques, it fails to disclose a list of vulnerabilities provided by an examination engine. The vulnerability profiles of

Hutchinson are lists of possible vulnerabilities. The vulnerability information as claimed is actual vulnerability information of an element or system as determined by an examination engine. Therefore, *Hutchinson* does not anticipate independent claim 14, and the rejection should be withdrawn.

Because independent claim 14 is allowable over the cited references of record, dependent claims 15-16 (which depend from independent claim 14) are allowable as a matter of law for at least the reason that dependent claims 15-16 contain all the steps/features of independent claim 14. Therefore, since dependent claims 15-16 are patentable over *Hutchinson*, the rejection to claims 15-16 should be withdrawn and the claims allowed.

C. Claims 25-33

The Office Action rejects claims 26-34 under 35 U.S.C. §102(e) as allegedly being anticipated by *Hutchinson, et al* (U.S. Publication No. 2003/0233438). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 26, as amended, recites:

26. A system for providing information on system vulnerabilities, comprising:
a ***database populated with descriptive system information as determined for a user by an examination engine;***
a database structure configured as a hierarchical plurality of database pages, each database page further comprises a page index, data section and selector section, and wherein the data section is further configured to include the element vulnerability information and the selector section is further configured to include links to related database pages;

- a rule processor module configured to enable rules for cycling through the database structure to match keywords provided by user input, including profile/policy-descriptive system information provided by the user, and the descriptive system information from the database with element vulnerability information from the database structure; and
- a presentation module configured to present results of keyword matches.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. Applicant respectfully submits that independent claim 26 as amended is allowable for at least the reason that *Hutchinson* does not disclose, teach, or suggest at least a **database populated with descriptive system information as determined for a user by an examination engine**. Even if, *arguendo*, *Hutchinson* discloses a search of vulnerability profiles by a user using keyword techniques, it fails to disclose a list of vulnerabilities provided by an examination engine. The vulnerability profiles of *Hutchinson* are lists of possible vulnerabilities. The vulnerability information as claimed is actual vulnerability information of an element or system as determined by an examination engine. Therefore, *Hutchinson* does not anticipate independent claim 26, and the rejection should be withdrawn.

Because independent claim 26 as amended is allowable over the cited references of record, dependent claims 27-34 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that dependent claims 27-34 contain all the steps/features of independent claim 26. Therefore, since dependent

claims 27-34 are patentable over *Hutchinson*, the rejection to claims 27-34 should be withdrawn and the claims allowed.

VI. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-34 and 40-46 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 20-0778.

Respectfully submitted,

/BAB/

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